



City of Albuquerque

Legislative File Number O-06-19 (version 3)

CITY of ALBUQUERQUE SEVENTEENTH COUNCIL

**F/S Amending ROA 1994 to Allow for Certain Outdoor Retail Uses, Special Events
& Revised Sign Regulations in Historic Old Town (O'Malley, by request)**

CITY of ALBUQUERQUE SEVENTEENTH COUNCIL

**AMENDING CHAPTER 14, ARTICLE 16, ROA 1994, THE CITY OF
ALBUQUERQUE COMPREHENSIVE ZONING CODE TO ALLOW FOR CERTAIN
OUTDOOR RETAIL USES, SPECIAL EVENTS & REVISED SIGN REGULATIONS.
BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
ALBUQUERQUE:**

**SECTION 1. Section 14-16-2-25 ROA 1994, H-1 HISTORIC OLD TOWN ZONE
is amended to read as follows:**

**This zone endeavors to preserve and promote the educational, cultural, and
general welfare of the public through the preservation and protection of the
traditional architectural character of historic old Albuquerque.**

**(A) *Architectural Styles.* The City Council finds and declares that the
Spanish Colonial, Territorial, or Western Victorian architectural
styles of building and structures erected prior to 1912 in the area
now constituted as the State of New Mexico comprise the
traditional architectural character of the H-1 Historic Old Town
Zone.**

(B) *Permissive Uses.*

(1) Uses permissive in the R-2 zone, except wireless

telecommunications facilities.

(2) Institution.

(a) Church or other place of worship, including incidental recreational and educational facilities. Incidental uses allowed include but are not limited to an emergency shelter operated by the church on the church's principal premises which is used regularly for public worship, notwithstanding special limitations elsewhere in this Zoning Code.

(b) Club.

(c) Library.

(d) Museum.

(e) Wedding chapel, including related sales and services, but excluding receptions.

(3) Manufacturing and creating, through handcrafted methods, of arts and crafts objects, including furniture and cabinets.

(4) Office.

(5) Parking lot, as regulated in the O-1 zone and meeting the landscaping standards of § 14-16-3-10 of this Zoning Code, with the following additional provisions:

(a) At least 15% of the ground area of parking lots (including driveways) shall be devoted to landscaping.

(b) Additional provisions adopted by the Landmarks and Urban Conservation Commission for the H-1 Historic Old Town Zone, including the requirements of the Rio Grande Boulevard Corridor Plan regarding off-street parking areas, shall also apply to parking lots.

(c) Any existing parking lots must come into compliance with landscaping and other site development requirements within one year of the date of adoption of

these requirements.

- (d) Landscaping plans showing all parking lot improvements must be reviewed and approved by the Landmarks and Urban Conservation Commission.**

(6) Retail sales of the following goods, plus incidental retailing of related goods and incidental services or repair, either indoors or outdoors, provided that any outdoor retail activity except parking and retail activities listed below at (6) (i), (l), (m) and (n), is contained within a private patio or porch that is completely enclosed by a solid wall that is a minimum of six (6) feet in height and the interior of which is not directly visible or accessible to the general public other than by the main entrance of the business (no direct entrance to the patio or porch from outside the business shall be considered the main entrance to the business):

- (a) Alcoholic drinks for consumption on the premises, provided:**

- 1. At least 60% of revenue from the establishment is from food service excluding the sale of alcoholic liquors. Upon application for annual license renewal to the State Department of Alcoholic Beverage Control the license holder shall certify to the City that not less than 60% of gross sales from the preceding 12 months operation of the establishment is derived from food services. The license holder shall submit an annual report prepared and signed by a Certified Public Accountant to the City Treasurer on the sales of the establishment containing the annual gross sales figures, separating the gross sales figures into two categories:**

- a. Food services sales; and
 - b. Alcoholic liquors sales
- 2. Alcoholic liquors may be served and consumed either indoors or outdoors, but only at a table or booth in conjunction with ordering and consuming a full service meal and only as further restricted below. For the purpose of this Zoning Code the term ***FULL SERVICE MEAL*** shall constitute what one would normally consume as a meal. No consumption of alcoholic liquors shall be allowed in a lounge or waiting area. Outdoor service and consumption of alcohol shall only occur within areas enclosed by permanent rigid screening that is a minimum of three (3) feet in height and which clearly demarcates the area in which alcohol is being served or consumed as separated from public areas.
 - a. Alcoholic liquor may be served and consumed outdoors only if the alcoholic liquors have been stored and prepared indoors, and only when such consumption of alcoholic liquors would not be injurious to any adjacent property or the Historic Old Town Area.
 - b. The determination of lack of injury shall be made by the City Hearing Officer.
- 3. No alcoholic liquors shall be sold before 11:00 A.M. All sales of alcoholic liquors shall cease at the time food sales and service in the establishment cease, except that in no event shall alcoholic liquors be sold after 11:00 P.M.
- 4. No sign in the H-1 zone shall refer to the serving of

**alcoholic liquors except by the use of the word
"drinks."**

- (b) Antiques.**
 - (c) Arts and crafts objects, supplies, plus their incidental creation provided there is little or no reproduction of identical objects.**
 - (d) Bicycles and bicycling accessories.**
 - (e) Books, magazines, newspapers, stationery, except adult book store.**
 - (f) Clothing, shoes, dry goods.**
 - (g) Cosmetics, notions, hobby supplies.**
 - (h) Flowers and plants.**
 - (i) Food and non-alcoholic drink for consumption on premises or off, but not drive-in facility; on -premises consumption may be outdoors if the food and non-alcoholic drinks have been prepared indoors.**
 - (j) Furniture, household furnishings.**
 - (k) Jewelry**
 - (l) Outdoor sales and related display of "handcrafted items" (as defined in § 13-3-2-4) provided the installation is on specified portions of the public sidewalk including porch along the east side of San Felipe Street, N.W., as permitted by Chapter 13, Article 3, Part 2, Old Town Solicitations.**
 - (m) Outdoor sales and related display on public right of way for the San Felipe de Neri Fiesta (traditionally the first weekend in June), are not restricted by this Zoning Code.**
 - (n) Other retail sales at special events as defined in Section 13-3-2-4 of the City Code.**
- (7) Services.**

- (a) Barber, beauty.
 - (b) Bicycle rental and related service (maintenance and minor repairs) and storage, provided there is no outdoor activity, including service, display or storage except as provided in § 14-16-2-25(B)(6) of this Zoning Code.
 - (c) Day care center.
 - (d) Hotel, motel.
 - (e) Instruction in music, dance, fine arts, or crafts.
 - (f) Interior decorating
 - (g) Photographer's studio, except adult photo studio.
 - (h) Tailoring, dressmaking.
 - (i) Theater, except adult theater.
 - (j) Outdoor theatrical performances under such terms and conditions as authorized by the Mayor or his designee._
- (8) Sign, off premise, as provided in §14-16-3-5 of this Zoning Code, as provided in the H-1 specific development guidelines which may be adopted and further provided:
- (a) Location. No farther than 20 feet from:
 - 1. The intersection point of the public right-of-way lines of two streets or alleys; or
 - 2. The intersection of public right-of-way and a parking lot with over 20 automobile and light truck parking spaces.
 - (b) Size. The sign area relating to any one business shall not exceed one-half square foot.
 - (c) Height. Sign height shall not exceed ten feet.
 - (d) Illumination. No sign that flashes or blinks shall be permitted. No visible bulbs, neon tubing, luminous paint, or plastics (with the exception of vinyl lettering) shall be permitted as part of any sign.
 - (e) Motion. No sign shall move. No streamers shall be

permitted.

- (f) **Lettering.** No business sign shall have more than one style of lettering as specified by the H-1 specific development guidelines and filed at the Planning Division. A sign shall not have more than two colors. No character shall be over 1.5 inches high.

(9) Sign, on premise, as in §14-16-3-5 of this Zoning Code as provided in the H-1 specific development guidelines which may be adopted and further provided:

(a) Location.

- 1. All signs attached to a structure fronting on Old Town Plaza or within a 150 foot radius of the exterior boundaries of the Plaza Park shall be wall signs or canopy signs.**
- 2. Business not fronting on Old Town Plaza and not within a 150 foot radius of the exterior boundaries of the Plaza Park may have free-standing or projecting signs, provided the Planning Director finds such sign type and plan reasonable and necessary for visibility.**

(b) Number. No more than two signs are permitted for any one business except that a business having frontage on two or more streets will be allowed a total of three signs. A composite group of small signs integrated into one framed unit shall be considered as one sign.

(c) Size.

- 1. No wall sign's area shall exceed eight square feet.**
- 2. No non-wall sign's area shall exceed three square feet on each of one or two sides.**

(d) Height. No sign shall exceed the height of the facade, eaves, or fire wall of a building, whichever is lower.

Variance to this regulation may be approved with a minimal showing of exceptionality based on its appropriateness as determined by the Landmarks and Urban Conservation Commission.

- (e) **Illumination.** No sign that flashes or blinks shall be permitted. No visible bulbs, neon tubing, luminous paints, or plastics (with the exception of vinyl lettering) shall be permitted as part of any sign.
- (f) **Motion.** No sign shall move. No streamer shall be permitted.
- (g) **Lettering.** No one sign shall have more than two styles of lettering as specified by the H-1 specific development guidelines and filed at the Planning Division. Normally a sign shall not have more than three colors, but the Landmarks and Urban Conservation Commission may approve a sign with additional colors in cases where its effect better achieves the purposes of the H-1 zone.
- (h) **Exceptions.**
 - 1. Standard copyrighted signs offering information on incidental services or recommendation, e.g., AAA or Visa, are permitted in addition to normal sign allowances, provided:
 - a. They conform to all provisions contained in this section except division (g) above which controls colors and lettering style.
 - b. They are inside a window.
 - c. No sign's area shall exceed 16 square inches.
 - 2. Signs indicating "Open" and "Closed" are permitted in addition to normal sign allowances if they are less than 1.5 square feet in area.

- 3. Premises with two or more buildings, at least one of which does not front directly on public right -of-way, are permitted an additional sign indicating the name and address of the complex and listing individual businesses located within the complex. Sign height shall not exceed ten feet above grade. The sign area relating to any one business shall not exceed one-half square foot, plus 20% of the area of the sign relating to individual businesses may be used for the name and address of the general premises. The total sign area shall in no case exceed 20 square feet. Only wall signs or free-standing signs are permitted; free-standing signs cannot be located closer than 150 feet to the exterior boundaries of the Plaza Park. Additional signs in this category may be approved by the Landmarks and Urban Conservation Commission for premises with more than one entry from the public right-of-way or adjacent property where the Commission determines that there is not reasonable public notice of businesses on the premises without such additional signs. On-premises signs performing the function described here may be allowed with less restrictions if they are one of the two or three signs that each business is allowed in all cases.**
- 4. Restaurants serving food prepared on premises for consumption on or off premises are permitted an additional wall sign of up to three square feet displaying a restaurant menu and indicating the name and hours of operation of the restaurant.**
- 5. General information signs that describe the availability**

of certain amenities such as shopping, dining, parking, snacking and restrooms are allowed. Such signs shall not have any direct reference to any business. Such signs may be placed at various strategic places around Old Town on City owned property. Such general information signs would be placed by the City and then maintained by the Old Town Merchants Association.

(C) *Specific Development Guidelines.* The Landmarks and Urban Conservation Commission shall with all due speed approve specific development guidelines for the H-1 zone at a public meeting duly advertised and publicized area-wide. The specific development guidelines shall establish criteria and standards for evaluation of applications for Certificates of Appropriateness in the H-1 zone and shall specify the types of applications for a Certificate of Appropriateness which may be approved by the Planning Director. The specific development guidelines shall be consistent with the provisions of this Zoning Code. The guidelines may be amended by the Landmarks and Urban Conservation Commission at a public hearing duly advertised and publicized area-wide at any time. Specific development guidelines shall be adopted or amended only after receiving a recommendation on the proposal from the Planning Commission.

(D) *Special Approval Required.*

- (1) Any construction, modification, addition, alteration, moving, or destruction which would affect the exterior appearance of any structure or place in the H-1 zone requires a Certificate of Appropriateness which must be approved by the Landmarks and Urban Conservation Commission.**
- (2) A Certificate of Appropriateness shall also be required for any construction, modification, addition, alteration, moving, or**

destruction which would affect the exterior appearance of any structure or place within 300 feet of the H-1 zone excluding public right of way. However, land zoned R-1 is excluded from this requirement. Procedures for applications for Certificates of Appropriateness shall be the same as those established by Chapter 14, Article 12 Landmarks and Urban Conservation, for HO Historic Overlay Zones. The applications shall be evaluated according to the criteria established by Chapter 14, Article 12, Landmarks and Urban Conservation, and the standards for architectural style and visual character in the H-1 Historic Zone. This Requirement shall apply until such time as the HO Historic Overlay Zone has been applied to the area around the H-1 zone. Thereafter, the requirements for the HO Historic Overlay Zone shall apply and the boundaries shall be as established by the HO Historic Overlay Zone.

- (3) Approval of Certificates of Appropriateness shall be by the Landmarks and Urban Conservation Commission unless the adopted special development guidelines authorize the Planning Director to make the decision.
- (E) *Height.* Structures shall not exceed 26 feet in height, except as provided in § 14-16-3-3 of this Zoning Code. However, the Landmarks and Urban Conservation Commission may require lower structure height where such is found appropriate to the scale of the immediate area.
- (F) *Lot Size.* No Requirements.
- (G) *Setback.* The Landmarks and Urban Conservation Commission may require setbacks up to but not exceeding those specified in the R-1 zone where such are found important to the scale and character of the immediate area.
- (H) *Density.* A floor area ratio of 0.75 is the maximum permitted.

(I) Off-Street Parking. None, except one properly paved off street loading space of at least 9 by 25 feet shall be provided for every commercially-used premise; however, such parking space is required only to the extent on-premise ground space is available.

(J) Special Use Permits for Outdoor Retailing.

(1) Special use permits for outdoor retailing on land other than public right of way may be granted. The provisions of § 14-16-4-2 of this Zoning Code govern the process of approving or voiding such special use permits, with the exception of the identity of the decision maker and the criteria for decision, which are as provided below in this division (J).

(2) The Landmarks and Urban Conservation Commission holds the hearing and makes the decision on granting a special use permit for outdoor retailing. The Commission may impose conditions necessary to meet the stated criteria for granting special use permits.

(3) Criteria for decision are that a special use permit for outdoor retailing shall be approved if and only if, in the circumstances of the particular case and under the conditions of the Certificate of Appropriateness, the outdoor retailing is found to meet all the following criteria:

(a) It is restricted to outdoor sales and display of HANDCRAFTED ITEMS (as defined in § 13-3-2-4) and non mass-produced bread;

(b) It is at a historically validated location, as evidenced by its having been occupied by outdoor retailing on most summer days since July 1, 1973; the space of the retailing activity shall be no larger than has generally been used during this period, and may be restricted to a smaller space;

- (c) The appearance of the outdoor retailing shall be controlled by a Certificate of Appropriateness approved at the same time the special use permit is granted, or as such certificate may subsequently be amended; and
- (d) The retailing will not be injurious to the adjacent property and uses or to the historic Old Town area.

(K) An air quality impact review and assessment may be required. See § 14-16-3-14 of this Zoning Code.

SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 3. COMPILATION. This ordinance shall be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect ninety days after publication by title and general summary.

X:\SHARE\Legislation\Seventeen\O-19fsfin.doc